(41) (42)

A.F.R.

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.No.159/2006

CORAM: Hon'ble Shri S.R.Nayak, Chief Justice &
Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Appellant Non-Applicant No.3	:	National Insurance Co. Ltd. Korba, through its Acting Divisional Manager, Bilaspur Office, Taha Complex, Vyapar Vihar Road, Bilaspur (Chhattisgarh)
		Versus
Respondent No.1 Applicant	: a/	Gendram Sahu, S/o Late Kanhailal Sahu, aged about 46 years.
	: b/	Smt. Seeta Bai Sahu, aged about 44 years, W/o Gendram Sahu.
	: c/	Ku. Rampyari Sahu, aged about 20 years, D/o Gendram sahu.
	: d/	Deepak Kumar Sahu, aged about 15 years (Minor), through is father Gendram Sahu. (All R/o Vill. Ghoramar, Tahsil-Takhatput, Distt. Bilaspur (CG)
Respondent No.2 Non-Applicant No.1	:	Chhannu Singh Kshatri, S/o J.S. Kshatri, aged about 44 years, R/o LIG-4, Rajendra Prasad Nagar, Korba (CG) (Truck owner)
Respondent No.3 Non-Applicant No.2	:	Jagendra Singh aged about 33 years, S/o Shrawan Singh, R/o Power House, Korba, Distt. Korba (CG), (Truck Driver)

Shri N.K.Agrawal, Senior Counsel for the appellant.

ORAL ORDER
(Passed on 3.4.2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

In this appeal preferred by the Insurance Company, learned counsel for the Insurance Company would place before us two contentions:

(i) that the M.A.C.T. has erred in law in recording the finding that the deceased was accompanying the goods; and

(ii) that the M.A.C.T. ought to have deducted half of the income of the deceased towards personal expenses of the deceased for the purpose of computing loss of dependency.

2. Having heard learned counsel for appellant-Insurance Company and perused the impugned order and other materials placed before us, we do not find any merit in the above contentions. The M.A.C.T. having appreciated substantive pieces of evidence has recorded the finding that the deceased was accompanying three bags of rice. The above factual finding recorded by the M.A.C.T. could not be condemned for want of legal evidence as perverse.

3. It is true that the deceased was unmarried, but, the dependents of the deceased included his parents, brother and unmarried sister. In other words, the deceased left behind him a large family who were entirely dependents upon his income. Although in normal circumstances, in the case of unmarried man dying, half of the income is deducted towards his personal expenses for the purpose of computing loss of dependency, there is no hard and past rule that that norm should be strictly adhered to in each and every case. It all depends upon who are dependents and to what extent they were depending upon the income of the deceased for their livelihood. The brother of the deceased was 15 years and sister was 20 years aged on the date of the accident. Therefore, the deceased had responsibility to educate the brother and to marry and settle the sister apart from supporting the aged parents. In that view of the matter, we cannot take any exception to the award of the M.A.C.T. in deducting only 1/3rd of the income towards personal expenses of the deceased. No other contentions are raised before us.

3. The appeal being devoid of merit is dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge